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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/190,309	11/12/1998	DANIEL R. SCHNEIDEWEND	RCA89.041	6495

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JOSEPH S TRIPOLI
PATENT OPERATIONS GE AND RCA
LICENSING MANAGEMENT OPERATION INC
PO BOX 5312
PRINCETON, NJ 085435312

EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/03/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/190,309

Applicant(s)

SCHNEIDEWEND ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 32-42 is/are rejected.
- 7) ☒ Claim(s) 34 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's arguments filed 10/16/03 have been fully considered but they are not persuasive.

Applicant has cancelled all pending claims and added new claims 32-42. The examiner has found new art that read on the new added claims.

Claim Rejections - 35 USC § 112

2. Claim 34 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The term "smoothed" is not described in the specification in regards to the filtering. On page 14, Lines 12-14 the applicant suggests a low pass filter, for aiding in the generation of a second time clock, but there is no suggestion of how the signal is being "smoothed".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 32-37 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (U.S. Patent No. 5,541,738) in view of Mugura (U.S. Patent No. 6,518,986) in further view of Mankovitz (U.S. Patent No. 5,677,895).

Referring to claim 32, Mankovitz of the '738 patent, discloses a video decoder system (see Figure 1).

Mankovitz ('738 patent) also discloses an electronic program guide means including a processor (see element 31 in Figure 1) and stored program schedule (see element 33 in Figure 1), said EPG means operable by a user to select a program from said plurality of programs (see Figure 7 for an EPG that allows the user to select a movie (program) from a plurality of movies) and to select a program processing function for said selected program (see Column 10, Lines 45-49 for using the schedule to program the VCR for future recording or viewing).

Mankovitz ('738 patent) also discloses a tuner (see element 61 in Figure 1) operable by said processor to tune said video decoder to receive packetized (see Column 7, Lines 16-21 for a teaching of the VBI data being in packets) information for said user selected program (see Column 10, Lines 23-29 for the microprocessor causing the decoder to get the data from the VBI, which is received from the tuner (see Column 4, Lines 12-15), including current time reference information from a corresponding program source (see Table I and Column 7, Lines 49-60 for additional data sent in the VBI, which includes time information).

Mankovitz ('738 patent) also discloses a first time of day clock for timing for providing timing functions (see Column 3, Lines 30-34 for a clock used for providing the

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time and handling timing functions), but fails to specifically disclose timing the tuner in accordance with said stored program schedule. Mugura teaches automatically tuning to a program at a future time, which has been selected by a user using a system timer (see Column 14, Lines 37-42). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the video decoder of Mankovitz, using the automatic tuning function of the video decoder taught by Mugura, for the purpose of giving the user a more interactive channel selection guide (see Column 2, Lines 15-16 of Mugura).

Further Mankovitz ('738 patent) and Mugura fail to disclose that the processor provides a second time-of-day clock based on the received current time information and that the processor initiates the user selected processing function (viewing the program at a later time, which both Mugura and Mankovitz teaches (except that Mankovitz does not teach this function in regards to a first time of day clock) based upon said second time-of-day clock.

Mankovitz of the '895 patent, discloses providing a second time of day clock (the updated clock) based on the received current time information sent over the VBI of a television signal, received by a tuner (see Column 3, Lines 52-67 and Column 4, Lines 1-4 and Lines 63-67 and Column 5, Lines 1-5). Mankovitz ('895 patent) also discloses using this code in the video decoder to set a time for future recording after the time has been updated (see Column 11, Lines 49-63).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the video decoder with automatic tuning, as taught by

Mankovitz ('738 patent) and Mugura, using the time correction process, as taught by Mankovitz ('895 patent), for the purpose of accurately keeping the time of day of the video decoder (see Column 1, Lines 11-12 of Mankovitz ('895 patent)).

Claim 33 corresponds to claim 32, where Mankovitz ('895 patent) discloses that the current time reference provides a current time of day (see Column 6, Lines 43-44).

Claim 34 corresponds to claim 32, where Mankovitz ('895 patent) discloses displaying the current time of day to the user (see Column 5, Lines 4-5). Mankovitz ('895 patent) also discloses updating the time, therefore creating the second clock, based on the time reference received from the current time reference in the VBI of the incoming television signal (see Column 4, Lines 62-67 and Column 5, Lines 1-4). Mankovitz ('895) patent also discloses a VBI decoder which filters the updated current time reference received from the incoming television signal, this is used to update the time in the receiver to be displayed by a user (see element 2052 in Figure 1 and Column 5, Lines 1-2).

Claim 35 corresponds claim 32, where Mankovitz ('738 patent) discloses recording or viewing (playback) (see Column 10, Lines 40-51).

Claim 36 corresponds to claim 35, where Mankovitz ('738 patent) discloses program decoding (note that when a program is viewed or being recorded, the tuner must inherently be tuned to the correct channel and decoded in order for it to be recorded or viewed).

Claim 37 corresponds to claim 32, where Mankovitz ('895 patent) discloses updating the second clock (see above) and Mankovitz ('738 patent) discloses

terminating a selected program processing function (ending the recording after the program has ended (see Column 4, Lines 45-47). Therefore, Mankovitz ('738 patent) would stop the processing based on the corrected time.

Referring to claims 40-42, see rejection of claim 32.

Allowable Subject Matter

4. Claims 38 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-

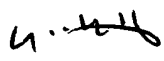
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1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

January 25, 2004


WILLIAM R. KOSTAK
PRIMARY EXAMINER